

In the drawings:

Please substitute the attached replacement drawing comprising sheet 1/3. The drawing is amended as specifically articulated at pages 12 and 13 below.

REMARKS

Claims 1-25 are pending in the application. All claims stand rejected. The drawings are objected to under 37 C.F.R. §1.83(a). Corrected drawing sheets are required in compliance with 37 C.F.R. §1.121(a). The disclosure is objected to due to various informalities. Claims 1-25 stand rejected under 35 U.S.C. §112, 1st paragraph. Claim 1, claims 4-11 and claims 13-25 stand rejected under 35 U.S.C. §112, 2nd paragraph as being indefinite. Claims 1-25 stand rejected under 35 U.S.C. §101. Claims 12, 14 and 15 stand rejected under 35 U.S.C. §102(e) as being anticipated by Andersen et al., (Andersen), WO 2004/038564. Claims 1, 2, 5-7 and 9-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Andersen in view of Hughes, US Patent Application Publication Number 2003/009347, and further in view of Petras, US Patent Application Publication Number 2001/0047290. Claims 3, 8, and 18-25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Andersen in view of Hughes, in view of Petras, and further in view of Reisman, US Patent Application Publication Number 2004/0186738. Claims 16 and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Andersen in view of Reisman.

Applicant responds to each ground of objection. Applicant traverses the rejection under 35 U.S.C. §101. Applicant traverses the rejection under 35 U.S.C. §102(e). Applicant traverses the rejection under 35 U.S.C.

§103(a). Applicant has amended the claims to avoid the rejections under 35 U.S.C. §112. Typographical errors in claims 13, 16, 22, and 23 have been corrected. The subheadings below correspond to subheadings in the Official Action. Unbracketed paragraph number references below refer to paragraphs in the Official Action.

DRAWINGS

Paragraph 4 states that in Figure 1, labels for a number of components are missing. This objection is not understood since the cited reference numerals are all included in Figure 1. Applicant attaches here with Sheet 1 of United States Patent Application Publication Number 2005/0027576, which is the publication of the present application. In Figure 1, reference numerals 1, 2, 8, 10, 12, 14, 16, 18, 46, and 48 are all present.

The action states that the unlabeled rectangular boxes shown in the drawings must be labeled with descriptive labels. These boxes only appear in Figure 1. In response to this observation, applicant has added descriptive labels for items 2, 8, 12, 14, 16, 18, 46, and 48. No new matter has been added. Support for each item is found in the specification as follows:

Item	Paragraph [00__] in
2	28
8	28
12	31

14	31
16	31
18	31
46	34
48	34.

In paragraph 5 the drawings are objected to under space 37 CFR §1.83(a) as failing to show a specific or credible utility as described in the specification. Applicant will demonstrate utility in discussion below of the rejection under 35 U.S.C. §101. Additionally, it is submitted that this objection should be withdrawn in accordance with MPEP §608.02(d). Under an Examiner Note, this MPEP section states, "Supply a full explanation, if it is not readily apparent how the drawings are incomplete." There is no explanation in the objection of any failing. Therefore, this objection merits withdrawal.

SPECIFICATION

Paragraph 6 recites seven objections to informalities in the disclosure. The objections are summarized and answered in the following paragraphs labeled to correspond to subparagraph designations in paragraph 6.

(a) Objection - Paragraph [0027] refers to parties 16 and parties 18 but information relating to interface functions is not shown below.

Response – In paragraph [0027], the term "(see below)" refers to the definitions of the parties, which are seen below. Parties 16 and 18 are described in paragraph [0030]. Interaction is described elsewhere.

(b) Objection - Paragraph [0028] states that, "A specific example of a revenue-sharing rule is discussed below in connection with the rule based account generator 44." The objections states that a specific example is not shown below.

Response - The Examiner's attention is drawn to paragraphs [0034] - [0036]. This passage states, "A rule agreed to by the members of the consortium 1 for sharing of compensation to the consortium 1 may be stored in the rule based account generator 44 to produce results indicative of compensation to members 2." This statement is followed by formulas and specific numerical examples. It is therefore submitted that this objection merits withdrawal.

(c) Objection - Paragraph [0036] refers to components which are not illustrated in Figure 2.

Response – Paragraph [0036] has been amended to state that hardware elements discussed with respect to Figures 2 through 9 are illustrated in Figure 1.

(d) Objection - Objection - Paragraph [0037] refers to components which are not illustrated in Figure 3.

Response – Paragraph [0036] has been amended to state that hardware elements discussed with respect to Figures 2 through 9 are illustrated in Figure 1.

(e) Objection - Paragraph [0040] refers to components which are not illustrated in Figure 3.

Response – Paragraph [0036] has been amended to state that hardware elements discussed with respect to Figures 2 through 9 are illustrated in Figure 1.

(f) Objection - Paragraph [0041] refers to components which are not illustrated in Figure 7.

Response - Paragraph [0036] has been amended to state that hardware elements discussed with respect to Figures 2 through 9 are illustrated in Figure 1.

(g) Objection - Paragraph [0043] refers to components which are not illustrated in Figure 9.

Response - Paragraph [0036] has been amended to state that hardware elements discussed with respect to Figures 2 through 9 are illustrated in Figure 1.

OVERVIEW

Applicant recites a method and a system which facilitates cooperation in a competitive context. Consortium members are vying with each other to be a "winner." There will be a "winner." However, non-winners are not "losers;" they will still be compensated. In the claims, particularly as amended, Applicant points out that a system and method are provided in which separate classes of compensation are defined and that monetary amounts are determined in accordance with selected formulae. A formula must be used. However, there is no single formula that must be discovered through undue experimentation. In one exemplary embodiment, the "right" formula is what the consortium members decide it is. Applicant instructs those of ordinary skill in the art how to define and implement the "cooperative-competitive" context. The prior art discloses cooperative work and proportional compensation. There is no suggestion of dividing a consortium into a "winner" and other members who are not the winner.

CLAIMS REJECTIONS UNDER 35 U.S.C. §112, 1ST PARAGRAPH

Paragraph 8 states that claims 1-25 are rejected as failing to comply with the enablement requirement. Paragraph 9 states that in items such as "means for resolving," "set of characteristics," and "set of criteria" have not been described in sufficient detail for enablement. Paragraph 9 further states that the claim 1 limitation relating to receiving reports from a partner does not

disclose a protocol or algorithms used to determine how reports are generated, *inter alia*. The rejection further states that claims 2-11 do not resolve the deficiencies.

Paragraph 10 states that the side deal register for modifying a rule does not enable modifications to the rule via a web-based register. Paragraph 11 refers to limitations including, "identifying a solution in data in said network" and "allocating income." The rejection states that rules for remunerating team members are not described, and also states that "predetermined rule" lacks antecedent basis.

Applicant submits that the terms utilized have specific meaning in the art, and therefore do instruct one of ordinary skill in the art in practice of the invention. Additionally, applicant has made editorial correction.

Applicant has corrected the recitation in claim 1 of "research substance" referred to in paragraph 9 of the Action with "research solution." This recitation is supported in the remainder of claim 1 and in paragraph [0042] of the specification. "Compensatable use," or winning solution, is defined in paragraph [0042] as one that one that will produce income. The criteria are agreed to by members of the consortium. Experimentation is not required. The members have knowledge of their own field, and they decide what they want to decide.

A “side deal” recited in claims 3 and 21 and referred to in paragraph 10 is just that. “[S]ide deal (*plural* side deals), noun. Definition: **agreement for personal benefit**: a mutually beneficial agreement made between two people aside from an agreement negotiated by them on behalf of the parties or organizations they represent.”

http://encarta.msn.com/dictionary_1861735163/side_deal.html

Members may select whatever side deals they want. It is within the skill of the art to program execution of a side deal.

Paragraph 11 refers to a lack of antecedent for “predetermined rule” in claim 12. This has been corrected. This paragraph also suggests that allocating income in accordance with a predetermined rule is not enabling. “Rule” has a specific meaning, e.g., **5. Mathematics** A standard method or procedure for solving a class of problems.

<http://www.thefreedictionary.com/rule>

The members can decide to use whatever formula they wish. Applicant teaches that a rule is selected and that it is applied to establish first and second classes of compensation. Applicant gives an example of a rule and teaches how to use it. No experimentation is needed. This teaching enables a method and system which are novel and non-obvious.

Claims Rejections Under 35 U.S.C. §112, 2nd Paragraph

Paragraph 13 states an objection to claim 1 due to the use of the term "form." This is a typographical error which has been corrected. Claims 4-11 are rejected as being indefinite since "said CPU" does not have antecedent. This recitation has been corrected. Claims 14, 16 and 17 are rejected as referring to a rule not distinctly described in claim 12. This recitation has been corrected.

CLAIM REJECTIONS UNDER 35 U.S.C. §101

Claims 1-25 are rejected under 35 U.S.C. §101 on the ground that the claimed invention is directed to non-statutory subject matter. In paragraph 18, the rejection suggests that the claims do not provide any physical transformation or produce a useful, concrete, and tangible result. Paragraph 19 states that the method and system are contingent upon various rules not distinctly described in the disclosure but determined by the members of the consortium. The rejection takes the position that the invention lacks enablement since undue experimentation is required. Paragraphs 20-22 reject claims 8 and 18 on the ground that the equation does not work in all instances. The rejection also states that calculating a winner's share is not a practical application of the method.

It is respectfully submitted that Applicant's claims meet standards explicitly set forth by the Federal Circuit for utility. The Federal Circuit stated,

Today, we hold that the transformation of data, representing discrete dollar amounts by a machine through a series of mathematical calculations into a final share price, constitutes a practical application of a mathematical algorithm, formula, or calculation, because it produces "a useful, concrete and tangible result"--a final share price momentarily fixed for recording and reporting purposes and even accepted and relied upon by regulatory authorities and in subsequent trades.

State St. Bank & Trust Co. v. Signature Fin. Group, 149 F.3d 1368, 1373 (Fed. Cir. 1998).

The instant claims recite a method and apparatus each of which calculates a monetary value, e.g., a dollar value, representing a share of a participant in a particular revenue stream. Applicant recites a data processing system for managing transactions. Signature Financial, in the cited authority, recited, "A data processing system for managing a financial services configuration of a portfolio ..." it is respectfully submitted that the suggestion in the rejection that the claims do not produce a useful, concrete, and tangible result is contrary to Federal Circuit authority. It is therefore submitted that this ground of rejection merits withdrawal.

Applicant traverses the rejection in paragraph 19. The utility of the invention is specific, substantial, and credible. One rule is selected for a particular consortium, and that rule is used consistently. The last sentence in paragraph [0036] states, "in practice, income will accrue periodically and be

shared by the members to periodically." The same rule is used each time that payments are made to members of the consortium sharing the income. The fact that Applicant's recitations are not limited to one specific embodiment does not render results unpredictable. It renders the results selectable. Applicant specifically points out that a rule is consistently used. So long as one rule is selected, the results are always predictable.

No experimentation, much less undue experimentation, is required to determine operative rules. Rule setting is a common mathematical function.

Claims 8 and 18 are rejected because the rule does not account for the total number of participants exceeding one hundred. Applicant as amended these claims to recite that N does not exceed 51. This limitation is supported in paragraph [0036] of the application as filed.

CLAIM REJECTIONS UNDER 35 U.S.C. §102(E)

Claim 12 and claims 14 and 15 dependent thereon stand rejected under 35 U.S.C. §102(e) as being anticipated by Andersen et al., (Andersen), WO 2004/038564.

Andersen discloses an information sharing system in which participants are rewarded in accordance with quantity of contributions. There is no winning participant or a class of non-winning participants. In the third from last paragraph of this specification, Andersen states, "For the purpose of

rewards-based compensation or other process or individual user performance measures, the system will incrementally tabulate the number of times a user publishes information objects for use by other users and requests information objects from other users."

Applicant has amended claim 12, and consequently claims 14 and 15 dependent thereon, to more explicitly recite that the rule provides for a first level of compensation and a second level of compensation. The first level of compensation goes to a designated consortium member. This member is commonly the "winner." A second level of compensation is established which is equal for all of the other members of the consortium. This is the non-winning share. This recitation is supported in this specification as filed at paragraphs [0035] and [0036]. Paragraph [0035] specifies the first level of compensation, which is for a winner. Paragraph [0036] specifies the second level of compensation, which is an equal share for all of their members.

In contradistinction, Andersen teaches compensating each participant in accordance with its contributions. There is no teaching of a winner and a set of non-winners.

Since Andersen does not teach each and every element of claim 12, 14 and 15 as amended, withdrawal of rejection under 35 U.S.C. §102(e) is warranted.

THE REJECTIONS UNDER 35 U.S.C. §103(A)

Claims 1, 2, 5-7 and 9-11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Andersen in view of Hughes, US Patent Application Publication Number 2003/009347, and further in view of Petras, US Patent Application Publication Number 2001/0047290. Claims 3, 8, and 18-25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Andersen in view of Hughes, in view of Petras, and further in view of Reisman, US Patent Application Publication Number 2004/0186738. Claims 16 and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Andersen in view of Reisman.

Applicant has amended claim 1 in the same manner as claim 12. The rule utilized within the apparatus establishes one level of compensation for a "winner" and another level of compensation which is equal for each of a number of participants who are not the designated winner. MPEP §2143.03 requires that, "All words in a claim must be considered in judging the patentability of that claim against the prior art." The rejection must recognize and address elements recited in Applicant's claims that are not in the cited art.

Anderson discloses a system which participants are effectively rewarded in accordance with quantity of contributions. Petras discloses a cooperative of system. However, users simply participate in populating a

database. Hughes discloses a system in which cooperation is facilitated. However, the Hughes system does not accommodate the concern which Applicant addresses, namely a competitive form of cooperation.

Reisman discloses a generalized marketplace. In paragraph [0038], Reisman states that,

"As used herein, the term "marketplace" may, for instance, refer to any physical or virtual meeting place at which buyers and sellers may meet and transact business of any kind. "Buyers" may include, for instance, any party seeking items of any kind, physical, virtual, or conceptual. The term "sellers" may include, for instance, any party offering items, and the term "business exchange" may, for instance, include any exchange activity relating to items. Such exchanges, may be for exchange of value or compensation, whether monetary, barter, or for other direct or indirect benefits."

Applicant respectively submits that the characterization of Reisman in paragraph 40 is not supported by the record. The rejection states that reason discloses a rule having a specific formula where R_w is a winner's share. In fact, Reisman does not recognize the concept of a winner.

The ground of rejection in paragraph 40 actually highlights the distinction from Applicant's embodiments. Paragraph 40 suggests that Reisman's alternative reward system provides compensation with respect to a research solution. Reisman does not have a research solution. Reisman

discloses a marketplace with many buyers and many sellers. Different participants in Reisman's marketplace may be totally unrelated. Reisman does not address a consortium of members focusing on one particular solution.

Paragraph 40 also states that Reisman's alternative reward system is a more efficient way to determine appropriate compensation to participants based on their contribution to the research solution, rendering claims 8 and 18 obvious. However, the formula of claims 8 and 18 does not compensate participants in proportion to their contribution. It creates one winner and one class of other participants. Applicant's system is not designed to produce proportional rewards. Rather, each participant knows there will be some compensation, and they know that they will at least get a participant share even if they are not a winner. Applicant effectively allows participants to hedge their risk. One alternative to Applicant's system is for a participant to go it alone and get rewarded with all or nothing.

Applicant has amended the claims to even more explicitly point out that the embodiments have a way of defining a winner and participants who are not the winner and setting first and second discrete, non-proportional levels of compensation.

MPEP §2143.03 requires that, "All words in a claim must be considered in judging the patentability of that claim against the prior art." It is

submitted that essential elements of Applicant's recitations are not shown in the art of record. The rejection must recognize and address elements recited in Applicant's claims that are not in the cited art. Where a rejection has not explained why every limitation in a claim would have been obvious to a person of ordinary skill in the art, a case of prima facie obviousness is not made out. *Ex parte Wada and Murphy*, Appeal No. 2007-3733, (BPAI, January 14, 2008).

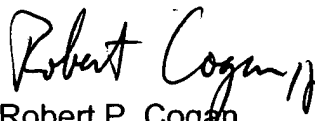
In the instant case, the rejection does not address the creation of discrete classes among participants and non-proportional compensation. Additionally, Applicant has amended the claims to even more explicitly point out that the embodiments have a way of defining a winner and participants who are not the winner and setting first and second discrete, non-proportional levels of compensation. It is therefore submitted that the rejections under 35 U.S.C. §103(a) have been avoided and should be withdrawn.

SUMMARY

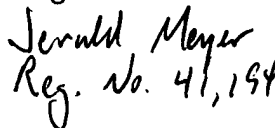
In response to the Official Action, amendments are made to the claims to avoid the rejections under 35 U.S.C. §112. Applicant has demonstrated that the claims meet the requisites set by the CAFC of 35 U.S.C. §101 to demonstrate utility. Applicant has amended the claims to even more explicitly

avoid the rejection under 35 U.S.C. §102(e). Applicant has amended the claims to more explicitly recite features which require recognition by the Examiner in the obviousness analysis and avoid the rejection under 35 U.S.C. §103(a). The prior art neither teaches nor suggests Applicant's recited structure. It is therefore submitted that the claims are not obvious and that the rejection under 35 U.S.C. §103(a) merits withdrawal.

Respectfully submitted,



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ATTACHMENT

Patent Application Publication Feb. 3, 2005 Sheet 1 of 3

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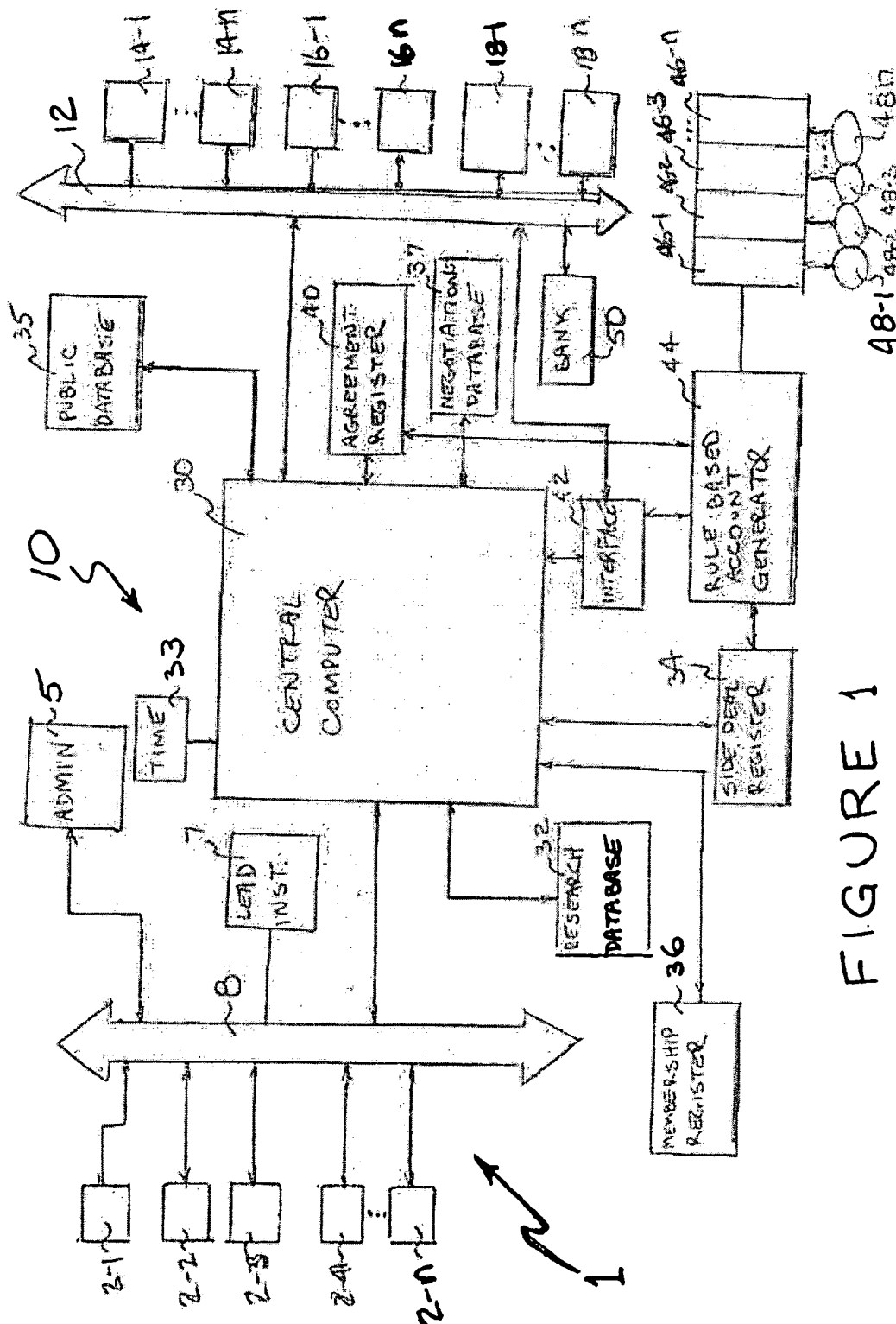


FIGURE 1